



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 11 2019

REPLY TO THE ATTENTION OF
SE-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

2002626

Mr. Jonathan Reich
Co-Chief Executive Officer
Reich Brothers, LLC
131st Street Holdings, LLC
15 Reservoir Road
White Plains, New York 10603

Re: Request for Information Pursuant to Section 104(e) of the Comprehensive
Environmental Response, Compensation, and Liability Act (CERCLA)
and Consent for Access to Property
BTL Specialty Resins Site
3350 West 131st Street, Blue Island, Cook County, Illinois
Site/Spill Identifier (SSID): C5JZ

Dear Mr. Reich:

Thank you for forwarding the Carlson Environmental correspondence from Edward Garske, your consultant, dated October 31, 2019, that contained the Geophysical Survey and Test Pit Report for a portion of the property owned by 131st Street Holdings, LLC ("131st Street Holdings" or "you" or "your"). The Carlson Environmental correspondence included three exhibits, Exhibit 1, labeled Test Pit Location Plan authored by Weaver Boos Consultants and dated October 9, 2007; Exhibit 2, Subsurface Investigation for Anomalies prepared by GPRS dated October 30, 2019; and Exhibit 3, an email from Bruce Shambino to Edward Garske dated October 31, 2019, that contained a narrative description of test pits excavated by Alessio & Sons and copies of eleven (11) photographs.

As you are aware, the U.S. Environmental Protection Agency has been seeking the cooperation of 131st Street Holdings in providing information and documents relating to contamination at the BTL Specialty Resins Site (the Site) located at 3350 West 131st Street, Blue Island, Illinois and identified by the Cook County Assessor's Office with PIN # 24-35-200-013-0000. EPA first contacted you on April 11, 2019, when EPA representatives, Craig Thomas, On-Scene Coordinator, and Mary Fulghum, Associate Regional Counsel, telephoned you to discuss this matter. In follow-up communications later that day with your attorney, Heather Richardson, of Thompson Hine LLP, EPA requested your cooperation to assess the environmental conditions at the Site. More particularly, EPA was responding to a report of buried drums containing

hazardous substances at the Site described in a complaint to the Illinois Environmental Protection Agency. EPA requested access to investigate this Site that you own to allow the Agency to determine if drums were buried on a portion of the property and to conduct a non-invasive ground penetrating radar (GPR) survey. While you provided some helpful documentation that enabled EPA to narrow the drum search to a small strip of land on the west side of the Site, for more than six months you did not provide the requested access to EPA. Furthermore, EPA was not informed of your plans to conduct a GPR investigation nor did you allow EPA the opportunity to review a work plan or to observe or otherwise participate in your field work and GPR investigation conducted in October 2019. The GPR work plan and related information is key to EPA's ability to assess the accuracy and efficacy of the work performed. Thus, this information request seeks details regarding the work associated with GPR investigation and test pit excavations you conducted in October 2019 and other related information. At this time, EPA's request for information is limited in scope and primarily seeks all data images and photographic images obtained by you and your contractor, Carlson Environmental, and subcontractor GPRS during work or work related to the ground penetrating radar survey conducted at the Site in October 2019.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675, commonly known as "CERCLA" or "Superfund," gives EPA the authority to, among other things: (a) assess contaminated sites; (b) determine the threats to human health and the environment posed by each site; and (c) clean up those sites in the order of the relative threats posed by each.

We encourage you to give this matter your immediate attention and request that you provide a complete and truthful response to this Information Request and enclosed questions (Enclosure C) within ten (10) business day of your receipt of this letter. EPA has requested entry and access to the property pursuant to its response and enforcement responsibilities under CERCLA and is requesting you complete and submit the enclosed Consent for Access within ten (10) business days of your receipt of this letter.

Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), EPA has broad information gathering authority that allows EPA to require persons to furnish information or documents relating to:

- (a) The identification, nature and quantity of materials which have been or are generated, treated, stored or disposed of at a vessel or facility or transported to a vessel or facility;
- (b) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility; and
- (c) Information relating to the ability of a person to pay for or to perform a cleanup.

While EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. Please note that false, fictitious or fraudulent statements or representations may subject you to civil or criminal penalties under federal law.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures outlined in Enclosure A, including the requirement for supporting your claim for confidentiality.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*

Instructions on how to respond to the questions in Enclosure C to this document are described in Enclosure A. Your response to this Information Request should be mailed to:

Donald R. Schwer III, Enforcement Investigator
U.S. Environmental Protection Agency, Region 5
Superfund & Emergency Management Division
Enforcement Support Section, SE-5J
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

If you have additional questions about the history of the Site, the nature of the environmental conditions at the Site or the status of cleanup activities, please contact Craig Thomas, On-Scene Coordinator at (312) 886-5907 or at thomas.craig@epa.gov. If you have any legal questions, please contact Mary Fulghum, Associate Regional Counsel, at (312) 886-4683 or at fulghum.mary@epa.gov. However, if you have specific questions about the Information Request, please contact Donald R. Schwer III, Enforcement Investigator, at (312) 353-8752 or at schwer.don@epa.gov.

We appreciate and look forward to your prompt response to this Information Request.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel Borries".

Samuel Borries, Chief
Emergency Response Branch 2

Enclosures

- A. Instructions
- B. Definitions
- C. Questions
- D. Declaration

cc: Heather Richardson, Thompson Hine LLC

bcc: Mary Fulghum, ORC (C-14J)
Craig Thomas, ERB 2 (SE-5J)
Don Schwer, ESS (SE-5J)
Debbie Keating, ESS (SE-5J)
Carolyn Bohlen, ESS (SE-5J)
John Maritote, RS 4 (SE-5J)
Gerri Pete, ESS (SE-5J)
Todd Quesada, RMD (SRC-7J)

Address for cc:

Heather Richardson, Esq.
Thompson Hine LLP
335 Madison Avenue, 12th Floor
New York, New York 10017-4611

Enclosure A
Information Request
BTL Specialty Resins Site

INSTRUCTIONS

1. Answer Each Question Completely. You must provide a separate answer to each question and subpart set forth in this Information Request. Incomplete, evasive or ambiguous answers shall constitute failure to respond to this Information Request and may subject you to the penalties set out in the cover letter.

2. Response Format and Copies. Provide the responses to this Information Request and copies of all requested documents either electronically or on paper (hard copy). Your submission, whether electronic or hard copy, must include an index that lists all the responsive documents provided, and that indicates where each document is referenced in the written response, and to which question or questions each document is responsive.

Any documents you determine to be Confidential Business Information (CBI) must be segregated out and submitted in a separate folder or on a separate compact disc (CD). These documents must be clearly marked as "Confidential Business Information".

If providing your response electronically, it must be submitted on a CD in Portable Document Format (PDF) and comply with the following requirements:

(a) CBI and personal privacy information (PII) should be provided on separate media (e.g., a separate CD) and marked as such to ensure information is appropriately handled.

(b) All documents originally smaller than 11 by 17 inches can be submitted electronically; any documents originally larger than 11 by 17 inches must be submitted in hard copy.

(c) Electronic PDF files must be text-searchable.

(d) The document index must clearly identify any single electronic document which has been separated into multiple electronic files (because of size limitation or otherwise) and each component file that comprises the full document.

3. Number Each Answer. Number each answer with the number of the question to which it corresponds.

4. Provide the Best Information Available. You must provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered noncompliance with this Information Request.

5. Identify Information Sources. For each question, identify all persons and documents you relied on for your answer.

6. Confidential Information. You must provide the information requested even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to 42 U.S.C. §§ 9604(e)(7)(E) and (F), and 40 C.F.R. § 2.203(b). All information claimed to be confidential should be contained on separate sheet(s) and should be clearly identified as “trade secret”, “proprietary” or “company confidential”. Your confidentiality claim should be supported by the submission of information consistent with 40 C.F.R. Part 2. Information covered by a confidentiality claim will be disclosed by EPA only to the extent, and only by means of the procedures, provided in 40 C.F.R. §§ 2.201-2.311. If no such claim accompanies the information received by EPA, it may be made available to the public by EPA without further notice to you.

You should also provide a redacted version of the same document that removes all CBI and PII from the document. This redacted version of the document should remove all information that you claim is CBI or PII. Since all the CBI and PII is removed, this redacted version is not subject to the procedures of 40 C.F.R. Part 2. EPA may make this redacted version available to the public without further notice to you.

7. Disclosure to the EPA Contractor. Information that you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. § 2.310(h), even if you assert that all or part of it is confidential business information. EPA may provide this information to its contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information that you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within twenty (20) business days of receiving this Information Request.

8. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy, should be segregated from your responses, included on separate sheet(s), and marked as “Personal Privacy Information”. You should note, however, that unless prohibited by law, EPA may disclose this information to the general public without further notice to you.

9. Objections. While you may object to certain questions in this Information Request, you must provide responsive information notwithstanding those objections. To object without providing responsive information may subject you to the penalties set out in the cover letter.

10. Privilege. If you claim that any document responsive to this Information Request is a communication for which you assert that a privilege exists for the entire document, identify (see Definitions) the document and provide the basis for asserting the privilege. For any document for which you assert that a privilege exists for a portion of it, provide the portion of the document for which you are not asserting a privilege, identify the portion of the document for which you are

asserting the privilege, and provide the basis for such an assertion. Please note that regardless of the assertion of any privilege, any facts contained in the document that are responsive to the Information Request must be disclosed in your response.

11. Declaration. You must complete the enclosed declaration, in hard copy with an original signature, certifying the accuracy of all statements in your response.

Enclosure B
Information Request
BTL Specialty Resins Site

DEFINITIONS

Terms not defined here shall have their ordinary meaning, unless such terms are defined in Section 101 of CERCLA, 42 U.S.C. § 9601, or Volume 40 of the Code of Federal Regulations, in which case such statutory or regulatory definitions shall apply.

The following definitions apply to the following words as they appear in this Information Request:

1. The term "you" or "Respondent" means the addressee of this Request, together with the addressee's agents, employees, contractors, and consultants.

2. The term "document" and "documents" means any method of recording, storing or transmitting information. "Document" includes, but is not limited to:

(a) writings of any kind, including, but not limited to, any of the following:

- i. letters, memoranda, fax transmittals;
- ii. meeting minutes, telephone records, notebooks;
- iii. agreements and contracts;
- iv. reports to shareholders, management or government agencies;
- v. transportation manifests;
- vi. copies of any document;

(b) any film, photograph, sound recording or digital data files on any type of device;

(c) any blueprints or drawings including depictions of all above ground or underground utilities; and

(d) attachments to, or enclosures with, any document.

3. The terms "Ground Penetrating Radar" or "GPR" refer to a surface geophysical method that emits weak radio frequency signals into the ground and detects the echoes sent back and uses them to build an image of the subsurface.

4. The term "identify" means, with respect to a natural person, to set forth: (a) the person's full name; (b) present or last known business and home addresses and telephone numbers; and (c) present or last known employer (include full name and address) with job title, position or business.

5. The term “identify” means, with respect to a corporation, partnership, business trust or other entity, to set forth: (a) its full name; (b) complete street address; (c) legal form (e.g., corporation, partnership); (d) the state under whose laws the entity was organized; and (e) a brief description of its business.

6. The term “identify” means, with respect to a document, to provide: (a) its customary business description (e.g., letter, invoice); (b) its date; (c) its number if any (e.g., invoice or purchase order number); (d) the identity of the author, addressee, and/or recipient; and (e) a summary of the substance or the subject matter. Alternatively, Respondent may provide a complete copy of the document.

7. The term “material” or “materials” means any and all raw materials, commercial products, wastes, chemicals, substances or matter of any kind.

8. The term “property” means any interest in real or personal property whatsoever, including fee interests, leases, licenses, rental and mineral rights.

9. The “Site” means any or all property or area described as the 131st Street Holdings, LLC property located at 3350 West 131st Street, Blue Island, Illinois and identified by the Cook County Assessor’s Office with PIN # 24-35-200-013-0000.

10. The term “waste” or “wastes” includes, but is not limited to, drums, trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants or contaminants, whether solid, liquid or sludge.

Enclosure C
Information Request
BTL Specialty Resins Site

QUESTIONS

1. Identify all persons consulted in the preparation of the answers to these Information Requests.
2. Identify all documents consulted, examined or referred to in the preparation of the answers to these Requests, and provide copies of all such documents.
3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons.
4. Did you request Weaver Boos Consultants to locate, identify or otherwise provide photographs of the test pits along the northwestern quadrant of the property as shown in the Weaver Boos Consultants, Figure 1, Geophysical Data Reference Map, dated 10-18-07 for Project No. 3029300-03?

If you answered yes to question 4 above, please provide all documentation of that request and any response to that request including any written communication to or from Weaver Boos or its subcontractors.

5. On what date(s) and time(s) did you or your contractor or subcontractor conduct brush clearing, mowing, grading, field work, excavation or other activities associated with the October GPR Report?
6. Describe any work conducted to level the ground (i.e., grade the surface of the soil to a flat surface without any protuberances) at the area of the Site that was the focus of the GPR investigation.
7. Identify any areas of the Site that were the focus of the GPR investigation that were not leveled in advance of the October 2019 GPR investigation and explain why the area(s) was (were) not leveled.
8. Provide all documents, data images and photographic images, including anomaly images, generated during October 2019 related to the Site including information or data related to soil, water (ground and surface), drums (ground and surface) and air quality and geology/hydrogeology at and about the Site, including geophysical surveys, ground penetrating radar, electromagnetic or magnetometer surveys, soil boring logs, geologic reports, well logs, well locations, soil samples, and all sampling data including sampling locations of all such samples at the Site.

9. Were any of the data images or photographic images, including anomaly images, generated or otherwise obtained during the site preparation for the GPR survey, during the GPR survey work, or during the Alessio & Sons excavation work at the Site, deleted or destroyed?
10. Did the GPRS Report, dated October 30, 2019, disclose all ground penetrating radar anomalies that were detected during the conduct of any GPR survey of the property conducted in October 2019?
11. With respect to GPRS Report, Exhibit 2, provide the following data and associated latitude and longitude position locations including projection system used for each the following items:
- a) the GPR data,
 - b) each anomaly screenshot,
 - c) each photograph, and
 - d) each numbered excavation included, cited or appended to the Exhibit 2, the October 2019 GPRS Report.
12. With respect to GPRS Report, Exhibit 3, provide the Global Positioning System (GPS) latitude and longitude position locations including projection system used for each the following items:
- a) the GPR data,
 - b) each photograph, and
 - c) each numbered excavation cited or appended to the in Exhibit 3 email from Bruce Shambino to Edward Garske dated October 31, 2019.
13. Provide GPS latitude and longitude position locations including projection system used for each the following items:
- a) any GPR data, and
 - b) any photographs, screenshots or excavations created during the October 2019 GPR survey work at the Site that were not included in the GPRS Report dated October 30, 2019.
14. Revise, as necessary for accuracy, the narrative descriptions in Exhibit 2, GPRS Report dated October 30, 2019, and, also in Exhibit 3, to reflect correct traverse directions based upon GPS latitude and longitude positions locations including projection system data.
15. Provide GPS latitude and longitude positions locations including projection system locations for each anomaly identified in Exhibit 3 of the October 2019 GPRS Report.
16. Describe, in detail, the GPR survey design for the GPRS Report dated October 30, 2019, including how the survey equipment and procedures were designed to locate metal drums or metal drum remnants in the Site soil conditions and at the appropriate depths.

17. Identify date(s) of calibration, manner and parameters used for the calibration, include the type and model of antennas used to conduct the GPR survey at the Site. Include the frequencies, age(s) of the antenna(s) and other parameters that were used to calibrate the GPR instrumentation for the October GPRS report.

18. If any of the documents including data solicited in this Information Request are no longer available, please state the reason why each document is no longer available. For every question contained herein, if information or documents responsive to this Information Request are not in your possession, custody or control, then please identify the persons from whom such information or documents may be obtained. If the records were destroyed, provide the following:

- (a) Respondents' document retention policies;
- (b) A description of how the records were destroyed and the approximate date of destruction;
- (c) A description of the type of information that would have been contained in the documents;
- (d) The name, job title and most current address known by you of the person(s) who would have produced these documents, the person(s) who would have been responsible for the retention of these documents, the person(s) who would have been responsible for the destruction of these documents, and the person(s) who had and/or still may have the originals or copies of these documents; and
- (e) The names and most current address of any person(s) who may possess documents relevant to this inquiry.

Enclosure D
Information Request
BTL Specialty Resins Site

DECLARATION

I declare under penalty of perjury that I am authorized to respond on behalf of the Respondent and that the foregoing is complete, true, and correct.

Executed on _____, 2019

Signature

Type or Print Name

Title